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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

MATTHEW ELVEY, an individual, and
GADGETWIZ, INC., an Arizona
corporation, on their own behalf and on
behalf of all others similarly situated,

Plaintiffs

v.

TD AMERITRADE, INC., a New York
corporation, and DOES 1 to 100,

Defendants.

Case No. C 07 2852 MJJ

**STIPULATED ~~PROPOSED~~ ORDER
CONTINUING CASE MANAGEMENT
CONFERENCE**

Judge: Martin J. Jenkins

GROUND

1. Plaintiffs Matthew Elvey and Gadgetwiz.com filed a First Amended Complaint against Defendant TD Ameritrade, Inc. (“TD Ameritrade”), on June 28, 2007, and Motion for Preliminary Injunction on July 10, 2007. TD Ameritrade filed a Motion to Dismiss the Plaintiffs’ First Amended Complaint on July 18, 2007.

2. In a proposed stipulated order filed by the parties on September 24, 2007, the parties explained that the parties are meeting and sharing information and on that basis, the parties requested that the Motion for Preliminary Injunction and Motion To Dismiss be removed from the Court's calendar.

3. On September 26, 2007, the Court entered the stipulated order removing the motions from the Court's calendar and permitting the parties to re-notice their respective motions on fourteen days notice.

4. The discussions referenced in the September 26 stipulated order are ongoing and the parties anticipate that those discussions will reach a conclusion concerning the direction of the litigation within approximately 30 days. Accordingly, the interests of the parties and the interests of judicial efficiency would be best served by continuing the Case Management Conference to ~~November 13, 2007~~. December 4, 2007

STIPULATION

1. IT IS HEREBY STIPULATED, pursuant to Local Rule 6-2, that the Case Management Conference shall be continued from October 16, 2007 to December 4, 2007 at 2:00 p.m.

IT IS SO STIPULATED, THROUGH COUNSEL.

Dated: October 9, 2007

By: /s/
Ethan Preston
Counsel for Plaintiffs Matthew Elvey and
Gadgetwiz, Inc. and the putative class

Dated: October 9, 2007

By: /s/
Lee H. Rubin
Mayer Brown LLP
Two Palo Alto Square
Suite 300
Palo Alto, California 94306

Counsel for Defendant
TD AMERITRADE, Inc.

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 IT IS SO ORDERED.

3 Date: 10/11/07

By: THE HONORABLE MARTIN J. JENKINS
UNITED STATES DISTRICT COURT JUDGE

